

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff(s),

v.

JASON GOLDSBY, et al.,

Defendant(s).

Case No. 2:16-CR-294 JCM (VCF)

ORDER

Presently before the court is defendant Jason Goldsby's *pro se* letter requesting early release. (ECF No. 430). Defendant's appointed federal public defender ("FPD") filed a notice of non-supplementation to defendant's *pro se* letter. (ECF No. 434). The government filed a response to defendant's letter. (ECF No. 435).

Also before the court is defendant's motion for appointment of counsel. (ECF No. 432).

Defendant is currently serving a 120-month prison sentence for interference with commerce by robbery. (ECF No. 419). His projected release date is May 23, 2025. (*Id.*).

The court construes defendant's *pro se* letter requesting early release as a motion for early release under 18 U.S.C. § 3582(c)(1)(A). A prisoner must exhaust his administrative rights with the Bureau of Prisons ("BOP") before filing a motion for compassionate release with the district court. *See* 18 U.S.C. § 3582(c)(1)(A). Defendant has not submitted proof that he has exhausted his administrative rights with the BOP. Thus, the court lacks authority to consider his motion. Defendant's motion (ECF No. 430) is denied, without prejudice.

1 However, defendant's FPD contends that the court has discretion to make a placement
 2 recommendation for him. (ECF No. 434 at 1). Section 3624(c)(1), as amended by the Second
 3 Chance Act of 2007, directs the BOP "to the extent practicable, ensure that a prisoner serving a
 4 term of imprisonment spends a portion of the final months of that term (not to exceed 12 months)"
 5 in an appropriate setting to "prepare for the reentry of that prisoner into the community." 18 U.S.C.
 6 § 3624(c)(2). An appropriate placement may include a residential reentry center or "home
 7 confinement." *Id.*

8 Section 3621(b) authorizes the BOP to "designate the place of the prisoner's
 9 imprisonment" generally upon consideration of, among other factors:

10 (4) any statement by the court that imposed the sentence—

11 (A) concerning the purposes for which the sentence to imprisonment was
 12 determined to be

13 (B) recommending a type of penal or correctional facility as appropriate.

14 18 U.S.C. § 3621(b)(4).

15 The BOP has the ultimate decision-making authority in deciding whether a prisoner will
 16 serve his remaining sentence in another community correctional facility. *Id.* Courts in this district
 17 have ordered the recommendation defendant is requesting. *See United States v. Parlin*, 2019 WL
 18 5268542 (D. Nev. Oct. 17, 2019); *see United States v. Lopez*, 2022 WL 1555187, (D. Nev. May
 19 16, 2022).

20 In light of defendant's efforts toward self-improvement and the lack of any government
 21 response, the court finds that reentry placement would advance the goals of the Second Chance
 22 Act. Accordingly, the court will issue a non-binding recommendation that defendant serve the
 23 remaining months of his sentence at a residential reentry center and home confinement as the BOP
 24 sees fit.

25 Finally, defendant filed a motion for appointment of counsel. (ECF No. 432). FPD Heidi
 26 Ojeda filed a notice of appearance on April 25, 2024 (ECF No. 433); therefore, defendant's motion
 27 (ECF No. 432) is denied as moot.

28 ...

Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that defendant's letter for early release (ECF No. 430), be, and the same hereby is, DENIED, without prejudice.

IT IS FURTHER ORDERED that defendant's motion for appointment of counsel (ECF No. 432) is DENIED as MOOT.

IT IS HEREBY RECOMMENDED that defendant be considered for placement at a residential reentry center and for home confinement.

DATED September 18, 2024.

James C. Mahan
UNITED STATES DISTRICT JUDGE